REMARKS

Applicants appreciate the Examiner's thorough examination of the subject application and request reconsideration of the subject application based on the foregoing amendments and the following remarks.

Claims 37-40 are pending in the subject application.

Claims 1-36 were previously canceled.

Claims 37-40 stand rejected under 35 U.S.C. §101 and/or 35 U.S.C. §103.

Claims 37-38 were amended for clarity and to more distinctly claim Applicants' invention

Claims 39-40 are canceled in the foregoing amendment and are replaced by claims 41-42 respectively. Claims 41-42 were written to address the §101 rejections directed to claims 39 and 40.

Claims 43-46 were added to more distinctly claim embodiments and aspects of the present invention.

The amendments to the claims are supported by the originally filed disclosure.

35 U.S.C. §101 REJECTIONS

Claims 39 and 40 stand rejected under 35 U.S.C. §101 for the reasons provided on pages 2-3 of the above referenced Office Action. Applicants respectfully traverse as discussed below.

As indicated above, claims 39 and 40 were canceled and replaced by claims 41 and 42 respectively. The added claims were written giving consideration to the concerns raised by the Examiner. Thus, Applicants believe that the grounds for rejection have been addressed.

It is respectfully submitted that for the foregoing reasons, claims 41 and 42 satisfy the requirements of 35 U.S.C. §101. Therefore, these claims are allowable.

35 U.S.C. §102 REJECTIONS

The Examiner rejected claims 37-40 under 35 U.S.C. §102(b) as being anticipated by Uchikoga [US Pub. No. US 2001/0005447]. Applicants respectfully traverse as discussed below.

Because claims 39 and 40 were canceled and replaced by claims 41-42 in the foregoing amendment, the following discussion refers to the language of added claims. Because claims 37 and 38 were amended in the instant amendment, the following discussion refers to the language of the amended claims. However, only those amended features specifically relied upon to distinguish the claimed invention from the cited prior art shall be considered as being made to overcome the cited reference.

As the Federal Circuit has indicated, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Or stated another way, "The identical invention must be shown in as complete detail as is contained in the ... claims. *Richardson v Suziki Motor Co.*, 868 F.2d 1226, 9 USPQ 2d. 1913, 1920 (Fed. Cir. 1989). Although identify of terminology is not required, the elements must be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990). It is clear from the following that the claims 37, 38 , 41 and 42 are not anticipated by the cited reference.

In claim 37, Applicants claim a recording and reproducing apparatus that includes an external interface to connect with an external recording medium having a content recorded thereon; a recording unit that records the content read from the external recording medium connected to the external interface; and a processing unit that reproduces or executes the recorded content. The processing unit has an installation processing unit that installs the content recorded in the external recording medium together with specified management information into a certain area of the recording unit. The processing unit also instructs the installation processing unit to install based on an installation instruction from the content that is reproduced or executed

by the processing unit. Also, the installation process to the certain area of the recording unit cannot be executed by other than the installation processing unit.

The recording unit records and has a management information file of the specified management information. Such management information includes a conversion table which equally processes the content installed in the certain area of the recording unit and the content recorded on the external recording medium. Such a recording and reproducing apparatus also includes a loading unit that reads contents recorded in the recording unit and the external recording medium based on the conversion table. Further, the processing unit is able to load the content only through the loading unit.

As described in the present invention, there are applications of many different types and sources being created and are capable of being loaded or disseminated to a wide variety of devices (telephones, DVD recorders, hybrid DVD recorders and computers. Thus, there is an increasing risk that the application or content being downloaded is an unauthorized copy or an increasing risk of corruption, alteration or unauthorized copying to data and/or applications that are found on the device or on other devices that can be communicatively coupled to the device.

Uchikoga is directed to controlling access to the content to be played back so that there is no copying of an altered or unauthorized copy of content to the device. In other words, Ucvhikoga is concerned with preventing copying of an unauthorized copy or an altered copy of content to be played back. Uchikoga does not describe a configuration that is capable of executing contents of an eternal recording medium and a recording unit in a common processing unit.

Uchikoga does describe various processes so that an unauthorized user cannot gain access to the copied content (*e.g.*, blocks access to any adult content) or so that expired content cannot be accessed by an authorized user (*e.g.*, a temporal limit on the ability to access the content, like a rental). However, Uchikoga does not anywhere describe a process or methodology where the content being executed is controlled by a processing unit so as to thereby limit if not block the

content's ability to access other local resources. The paragraphs describing the blocking of access in Uchikoga are as indicated above, describing methods and processes for limiting one's access to copy content or to playing back content under certain circumstances (*e.g.*, expired access).

As also previously indicated by Applicants, in paragraph [0114] of Uchikoga, there is described a process for preventing playback or execution of the content which has already been reproduced. In this regard, reference should be made to paragraph [0042] which defines what is meant by playback. As also described in paragraph [0082], playback can be inhibited by attaching temporal information to a loaded program or a key code in authentication processing. By establishing appropriate checks in the process when using the playback mode switching unit or the extended navigator holding unit, the temporal information or key can be used by the information playback apparatus 1 or to inhibit playback. Similarly, Uchikoga describes in connection with the execution of Processes A-D, that these processes also can be used to inhibit playback. As to the keycode discussion, Uchikoga describes a process for inhibiting playback of stream data that has already been downloaded.

In sum, Uchikoga describes preventing the downloading of content under certain circumstances and preventing playback under certain situations. Nowhere does Uchikoga describe, teach or suggest, controlling the downloading of content such that the content cannot directly access the storage medium or having content played back while controlling the execution or reproduction of the content so it cannot gain access to other content or other areas of the storage medium. Thus, Uchikoga does not describe, nor teach or suggest the recording and reproducing apparatus as set forth in claim 37.

Applicants respectfully submit that the above remarks distinguishing claim 37 from Uchikoga also at least applies to distinguish the file accessing method of claim 38, the computer readable storage medium of claim 41 and the computer of claim 42 from Uchikoga. This shall

not be considered an admission that claims 38, 41 and 52 are not otherwise patentable over Uchikoga.

As indicated by Federal Circuit, in deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify *corresponding elements* disclosed in the allegedly anticipating reference (emphasis added, citations in support omitted). *Lindemann Maschinenfabrik GMBM v. American Hoist and Derrick Company et al.*, 730 F. 2d 1452, 221 USPQ 481,485 (Fed. Cir. 1984). In concluding that the `770 Patent did not anticipate the claims, the Federal Circuit in *Lindemann Maschinenfabrik GMBM v. American Hoist and Derrick Company et al.*, at 221 USPQ 485-486, further provides that:

> The `770 patent discloses an entirely different device, composed of parts distinct from those of the claimed invention, and operating in a different way to process different materials differently. Thus, there is no possible question of anticipation by equivalents. Citations omitted.

It is clear from the foregoing remarks, that the allegedly corresponding elements disclosed in Uchikoga do not in fact correspond to the elements of the claimed invention. It also is clear that the apparatus described in Uchikoga functions and operates in a different manner from that of the claimed invention. As also indicated above, the method disclosed and taught in Uchikoga is different from that claimed and taught by Applicants. Thus, there can be no disclosure or teaching in Uchikoga of Applicants' invention.

It is respectfully submitted that for the foregoing reasons, claims 37-38 and 41-42 are patentable over the cited reference and thus satisfy the requirements of 35 U.S.C. 102(b). Therefore, these claims are allowable.

CLAIMS 43-46

As indicated above, claims 43-46 were added to more distinctly claim embodiments of the present invention. These claims are clearly supported by the originally filed disclosure, including the originally filed claims. It also is respectfully submitted that these added claims are patentable over the cited prior art on which the above-described rejection(s) are based.

It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested.

Although claims were added to the subject application, Applicants believe that additional fees are not required. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 65213(71117).

Respectfully submitted,
Edwards Angell Palmer & Dodge, LLP

/ William J. Daley, Jr. /

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